

810-6-3-.52 State Sales, Use, and Lodgings Tax Exemption for Qualified Production Companies. **(NEW RULE)**

(1) Purpose. This rule sets forth guidelines and procedures to be used by the Department of Revenue in the administration of Act 2009-144, as codified in Article 3, Chapter 7A of Title 41 of the Code of Alabama 1975.

(2) Definitions. For purposes of this rule, and to the extent not inconsistent with the Rules of the Alabama Film Office, these terms shall be defined as follows:

(a) Department: The Alabama Department of Revenue.

(b) Office: The Alabama Film Office.

(c) Qualified Production Company: This term shall have the same meaning as ascribed to it in Code of Alabama 1975, Section 41-7A-42.

(d) Report: Statement of a CPA issued upon the completion of the Final Incentive Audit that provides a summary of the Production Expenditures Expended in Alabama. (Required by Alabama Department of Commerce/Alabama Film Office Incentives Rule 281-3-1-.02(1)(w)).

(e) State-Certified Production: This term shall have the same meaning as ascribed to it in Code of Alabama 1975, Section 41-7A-42.

(3) Act 2009-144, as codified in Article 3, Chapter 7A of Title 41 provides for an exemption of state sales, use, and lodgings taxes levied pursuant to Sections 40-23-2, 40-23-61, and 40-26-1, respectively, of the Code of Alabama 1975 for Qualified Production Companies that incur, in the aggregate, \$150,000 or more in connection with one or more State-Certified Productions within a consecutive 12 month period.

(4) The Qualified Production Company must submit an application to the Office for approval. (See Alabama Department of Commerce/Alabama Film Office Incentives Rule 281-3-1-.04 for requirements and procedures)

(5) Once approved, the Office shall issue an approval letter to the Qualified Production Company and to the Department notifying both that the Qualified Production has been approved. The approval letter shall provide the total amount of Incentives approved and a breakdown of the Incentives awarded by State sales, use and lodgings tax and by Rebate. Upon receipt of the approval letter, the Department will issue a state sales, use, and lodgings tax exemption certificate to the Qualified Production Company. This exemption certificate shall be used by the Qualified Production Company to claim the exemption from the state portion of sales, use and lodgings tax when making qualifying purchases and/or accommodations. Local sales, use and lodgings tax are not exempt and shall be paid to the vendor at the time of purchase or at

the time the accommodations are provided. The exemption is effective on the date the exemption certificate is issued by the Department.

(6) Upon completion of production activities within the State of Alabama on the State-Certified Production, the Qualified Production Company shall return the state sales, use, and lodgings tax exemption certificate to the Department.

(7) The Report is required to be filed with the Office as provided for in Alabama Department of Commerce/Alabama Film Office Incentives Rule 281-3-1-.06, and shall identify, on a city-by-city and county-by-county basis, the amount of total incentives used in the way of exemptions from state sales, use and lodgings taxes, in addition to specifically identifying the amount of the total Production Expenditures eligible for the Rebate.

(8) If a Qualified Production Company fails to timely submit the Report to the Office as provided for in Rule 281-3-1-.06, the Qualified Production Company shall become liable for the state sales, use, and lodgings taxes that would otherwise have been paid.

(9) If the Qualified Production Company, which is producing a State-Certified Production, incurs Production Expenditures in an amount less than \$150,000, then the Qualified Production Company shall be liable for the state sales, use, and lodgings taxes that would have been paid had the exemption not been granted; provided, however, that if the Qualified Production Company pays the state sales, use, and lodgings taxes due within 60 days of the date the Report was submitted, the Qualified Production Company shall incur no penalties.

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Authority: Sections 40-2A-7(a)(5) and 41-7A-40 through 48, Code of Alabama 1975

History: